



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/485,904	03/22/00	AUDOUSSET	M 05725.0545

IM22/1207
FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER
1300 I STREET NW
WASHINGTON DC 20005

EXAMINER

LIOTT, C

ART UNIT	PAPER NUMBER
----------	--------------

1751

8

DATE MAILED: 12/07/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.
09/485,904

Applicant(s)
Audousset

Examiner
Caroline D. Liott

Group Art Unit
1751



- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 16-40 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 16-40 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☒ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1751

Applicant's Preliminary Amendments filed 2/18/00 have been entered. Claims 1-15 have been canceled accordingly. Applicant's Preliminary Remarks filed 2/18/00 have been fully considered. Regarding the definition of R_{1-4} , Examiner suggests the specification be amended in accordance with the claims for consistency.

Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 35 is indefinite for reciting that the "process" comprises a "medium suitable for dyeing" because it is unclear how a process can comprise a carrier. Clarification is required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terranova.

Terranova, WO 97/49378, teaches compositions for dyeing hair which contain at least one pyrazolo[1,5-a]pyrimidine compound as oxidation base, which pyrazolo[1,5-a]pyrimidines encompass those as claimed, and wherein Terranova's preferred pyrazolo[1,5-a]pyrimidines include those as claimed, see page 3, line 7-page 4, line 19; and page 4, line 26-page 5, line 30. The pyrazolo[1,5-a]pyrimidines are present in the compositions in the claimed amounts, see page 8, lines 13-16. Terranova teaches and claims that the compositions may contain an additional

Art Unit: 1751

oxidation base in the claimed amounts, wherein preferred oxidation bases include the claimed N,N-bis(β -hydroxyethyl)-p-phenylenediamine, see page 9, line 24-page 10, line 9; page 11, lines 7-10; and claims 7-8. Terranova teaches that the compositions may also contain a coupler in the claimed amounts in order to modify the shades or enrich the glints, wherein preferred couplers include both m-aminophenols and m-phenylenediamines as claimed, see page 11, line 12-page 12, line 3. Terranova teaches that it is known in the hair dyeing art to mix oxidation base and couplers in order to obtain a wide range of colors, see page 1, lines 13-30. Terranova teaches processes of dyeing hair with oxidants as claimed, and teaches that the compositions may be packaged in kits as claimed, see page 13, lines 12-17; page 13, line 28-page 14, line 2; and page 14, lines 21-28. Terranova exemplifies various compositions which contain a mixture of a pyrazolo[1,5-a]pyrimidine oxidation base and coupler as claimed, wherein each component is present in the claimed amounts, and is applied to hair in a dyeing process as claimed, see Application Examples 2-5, 11-14, 21, 24 and 27. Terranova does not exemplify a dyeing composition, process or kit as claimed, particularly which contains or uses the claimed second oxidation base.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to formulate a composition for dyeing hair which contains a pyrazolo[1,5-a]pyrimidine first oxidation base, the second oxidation base N,N-bis(β -hydroxyethyl)-p-phenylenediamine, and a m-aminophenol or m-phenylenediamine coupler as claimed, wherein each component is present in the claimed amounts in mediums as claimed, wherein the compositions are applied to hair with an

Art Unit: 1751

oxidant in a dyeing process as claimed, and are stored in kits as claimed, because Terranova teaches such compositions, processes and kits as preferred embodiments of the patentee's invention. Particularly, it would have been obvious to those skilled in the art to add the claimed N,N-bis(β -hydroxyethyl)-p-phenylenediamine second oxidation base to Terranova's exemplified compositions and processes identified above, resulting in compositions and processes as claimed, because the patentee teaches that this claimed additional oxidation base may be added to the patentee's compositions, and because Terranova teaches that it is known and conventional in the hair dyeing art to mix different oxidation bases and couplers in order to obtain a wide variety of colors, absent a showing otherwise.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant is reminded that if any evidence is to be presented in accordance with 37 CFR 1.131 or 1.132, such evidence should be presented before final rejection in order to be considered timely.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caroline Liott whose telephone number is (703) 305-3703. The examiner can normally be reached on Mondays-Thursdays from 8:30am to 6:00pm, and on alternate Fridays.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached at (703)308-4708. All before final official faxes should be sent to (703) 305-7718. All after final official faxes should be sent to (703) 305-3599. All non-official faxes should be sent to (703) 305-6078.

Art Unit: 1751

Any inquiry of a general nature should be directed to the Group receptionist whose telephone number is (703) 308-0661.

C.D.L.
December 4, 2000

Carole D. Liott
Caroline D-Liott
Primary Examiner